STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED April 17, 2007
v	No. 267292 Wayne Circuit Court
DEANGELO PIERRE EDMONDS, Defendant-Appellant.	LC No. 05-005842-01

Before: Neff, P.J., and O'Connell and Murray, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of first-degree premeditated murder, MCL 750.316(1)(a); possession of a firearm by a felon, MCL 750.224f; and possession of a firearm during the commission of a felony, MCL 750.227b (felony-firearm). Defendant was sentenced to life imprisonment for his first-degree murder conviction, three to five years' imprisonment for his felon-in-possession conviction, and a consecutive term of two years' imprisonment for his felony-firearm conviction. He now appeals as of right. We affirm.

I

Defendant argues that there was insufficient evidence to support a first-degree, premeditated murder conviction. This Court reviews de novo claims of insufficient evidence**.** *People v Lueth*, 253 Mich App 670, 680; 660 NW2d 322 (2002). In so doing, this Court views the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could have found that the essential elements of first-degree premeditated murder were proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999).

To convict defendant of first-degree murder, the prosecution was required to prove beyond a reasonable doubt that defendant killed the victim, and that the killing was willful, deliberate, and premeditated. MCL 750.316(1)(a); *People v Bowman*, 254 Mich App 142, 151; 656 NW2d 835 (2002). Premeditation and deliberation require sufficient time to permit the defendant to reconsider his actions, or to take a "second look"; the prosecutor may prove premeditation with evidence of the prior relationship of the parties, the defendant's actions before the killing, the circumstances of the killing itself, including the weapon used and the location of the wounds inflicted, and the defendant's conduct after the homicide. *People v Anderson*, 209 Mich App 527, 537; 531 NW2d 780 (1995); *People v Berry*, 198 Mich App 123, 128; 497 NW2d 202 (1993). A "second look" can be shown by demonstrating that there was "'some time span

between [the] initial homicidal intent and ultimate action.'" *People v Gonzalez*, 468 Mich 636, 641; 664 NW2d 159 (2003) (citations omitted).

Additionally, once defendant introduced evidence of self-defense, the prosecutor was required to prove beyond a reasonable doubt that defendant did not act in self-defense. *People v Elkhoja*, 251 Mich App 417, 443; 651 NW2d 408 (2002), vacated in part on other grounds 467 Mich 916 (2003). The killing of a victim may be excused as justified self defense if, under the circumstances, a defendant honestly and reasonably believed that he was in imminent danger of death or great bodily harm and that it was necessary for him to exercise deadly force. *People v Riddle*, 467 Mich 116, 142; 649 NW2d 30 (2002). Evidence that defendant could have safely avoided using deadly force is relevant in determining whether it was reasonably necessary for him to kill the victim. *Id.* at 142.

On the night of May 21, 2004, Daquan Jackson was found dead near the intersection of Rochelle and Maccrary streets in Detroit. The prosecution's theory of the case was that on May 20, 2004, defendant and two accomplices armed themselves with guns and then waited for the victim to come, in retribution for an earlier argument that nearly led to a physical altercation. Defendant argued that he acted in self-defense, after the victim threatened defendant and discharged a firearm at him.

The evidence, viewed in a light most favorable to the prosecution, revealed that the defendant's actions before the killing, the location of the wounds, and defendant's conduct after the killing constitute sufficient evidence from which a rational jury could have concluded beyond a reasonable doubt that defendant intended to kill the victim, and that defendant did not engage in self-defense. Defendant admitted that, after an initial verbal altercation with the victim, he extracted himself from the situation, and walked to Daymond Richard's house to obtain a rifle. Defendant proceeded to conceal the rifle in a garbage bag and walk back to the house where he allegedly resided at the time: 14695 Rochelle Street. Defendant admitted that he had several other places he could have gone to avoid the victim, including his mother's house and his aunt's house, which were within walking distance of Rochelle Street. Laurice Simmons testified that shortly after the initial verbal altercation at Montgomery's house, defendant said he was "going to get [the victim]." There was also testimony that, while defendant was walking with the rifle toward 14695 Rochelle Street, he repeatedly said that "when the block clear up, it's on." Furthermore, defendant admitted that Dontell Martin and possibly Chris Richard were communicating the location of the victim to each other and to defendant shortly before the shooting. That evidence supported a finding that defendant planned to lay in wait with Martin and Chris Richard and "ambush" the victim, which was inconsistent with defendant's theory of self-defense.

In addition, the prosecution presented evidence that the victim was killed by a bullet wound that entered in decedent's right buttock, which would support a finding that the victim was shot in the back while attempting to run away from defendant, not while running and shooting at defendant, as defendant claimed. Contrary to defendant's testimony and theory of self-defense, the victim was not found with a weapon in his possession at the scene of his shooting, and several witnesses testified that the victim did not have a gun during his initial altercation with defendant and that nobody removed a gun from the victim's body before the police arrived. And, before the victim was killed, defendant ran near him, not away from him. He made no attempt to retreat to or stay in a safe place.

Furthermore, after the shooting, defendant avoided apprehension for nearly one year, with the assistance of his relatives. This Court has stated that evidence of flight is admissible to show consciousness of guilt, and consciousness of guilt could be inconsistent with a sincere belief of self-defense. *People v Compeau*, 244 Mich App 595, 598; 625 NW2d 120 (2001). In deferring to the jury's factual determination, this Court is required to draw all reasonable inferences and make credibility choices in favor of the jury's verdict**.** *People v Nowack***,** 462 Mich 392, 400; 614 NW2d 78 (2000). Furthermore, even though evidence was presented that could lead a jury to believe that defendant acted in self-defense, there was conflicting evidence contradicting defendant's claim that he acted in self-defense, and it is the province of the jury to assess the credibility of witnesses and to assess the importance of evidence. *People v Aldrich*, 246 Mich App 101, 124; 631 NW2d 67 (2001). Viewing the evidence in a light most favorable to the prosecution, the prosecutor presented sufficient evidence for a rational jury to find all of the elements of the crime of first-degree murder beyond a reasonable doubt and to find that defendant did not act in self-defense.

II

Defendant argues that the trial court committed error requiring reversal in failing to instruct the jury on the necessarily included lesser offense of voluntary manslaughter. We disagree.

Defendant waived any claim of instructional error regarding the lack of a voluntary manslaughter instruction. He agreed with the prosecutor's request not to instruct the jury on voluntary manslaughter and agreed to the trial court's proposed instructions. Accordingly, defendant invited any alleged instructional error with respect to the voluntary manslaughter instruction. An invited error occurs "when a party's own affirmative conduct directly causes the error" of which that party later complains. *People v Jones*, 468 Mich 345, 352 n 5; 662 NW2d 376 (2003). If a party invites instructional error, by expressing satisfaction with a trial court's instructions, it constitutes a waiver that extinguishes any error regarding the instructions. *People v Carter*, 462 Mich 206, 215; 612 NW2d 144 (2000).

Affirmed.

/s/ Janet T. Neff
/s/ Peter D. O'Connell
/s/ Christopher M. Murray